

Federal Acquisition Regulation

47.505

temporary waiver exists and so notifies the appropriate agency or agencies.

47.503 Applicability.

(a) Except as stated in paragraph (b) below and in 47.504, the Cargo Preference Acts of 1904 and 1954 described in 47.502(a) apply to the following cargoes:

(1) Supplies owned by the Government and in the possession of—

- (i) The Government;
- (ii) A contractor; or
- (iii) A subcontractor at any tier.

(2) Supplies for use of the Government that are contracted for and require subsequent delivery to a Government activity but are not owned by the Government at the time of shipment.

(3) Supplies not owned by the Government at the time of shipment that are to be transported for distribution to foreign assistance programs, but only if these supplies are not acquired or contracted for with local currency funds (see 47.504(b)).

(b) Government-owned supplies to be shipped commercially that are (1) in the possession of a department, a contractor, or a subcontractor at any tier and (2) for use of military departments shall be transported exclusively in privately owned U.S.-flag commercial vessels if such vessels are available at rates that are fair and reasonable for U.S.-flag commercial vessels.

(c) The 50-percent requirement shall not prevent the use of privately owned U.S.-flag commercial vessels for transportation of up to 100 percent of the cargo subject to the Cargo Preference Act of 1954.

47.504 Exceptions.

The policy and procedures in this subpart do not apply to the following:

(a) Shipments aboard vessels of the Panama Canal Commission or as required or authorized by law or treaty.

(b) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353).

(c) Shipments of classified supplies when the classification prohibits the use of non-Government vessels.

(d) Subcontracts for the acquisition of commercial items or commercial components (see 12.504(a)(1) and (a)(11)). This exception does not apply to—

(1) Grants-in-aid shipments, such as agricultural and food-aid shipments;

(2) Shipments covered under 46 U.S.C. Appx 1241-1, such as those generated by Export-Import Bank loans or guarantees;

(3) Subcontracts under—

(i) Government contracts or agreements for ocean transportation services; or

(ii) Construction contracts; or

(4) Shipments of commercial items that are—

(i) Items the contractor is reselling or distributing to the Government without adding value (see FAR 12.501(b)). Generally, the contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment; or

(ii) Shipped in direct support of U.S. military—

(A) Contingency operations;

(B) Exercises; or

(C) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

[48 FR 42424, Sept. 19, 1983, as amended at 60 FR 34760, July 3, 1995; 60 FR 48250, Sept. 18, 1995; 65 FR 24324, Apr. 25, 2000; 68 FR 13203, Mar. 18, 2003]

EDITORIAL NOTE: At 65 FR 36031, June 6, 2000, section 47.504 was amended in the first sentence of paragraph (e) by removing “(see 12.504(a)(13))” and adding “(see 12.504(a)(11))”. However, prior to this amendment paragraph (e) was redesignated as (d).

47.505 Construction contracts.

(a) Except as stated in paragraph (b) below, construction contractors, including subcontractors and suppliers, engaged in overseas work shall comply with the policies and regulations in this subpart.

(b) These requirements shall not apply to military assistance, foreign aid, or similar projects under the auspices of the U.S. Government when the recipient nation furnishes, or pays for, at least 50 percent of the transportation, in which event foreign-flag vessels may be used for a portion not to

47.506

exceed 50 percent of the gross tonnage for the project.

47.506 Procedures.

(a) The contracting officer shall obtain assistance from the transportation activity (see 47.105) in developing appropriate shipping instructions and delivery terms for inclusion in solicitations and contracts that may involve ocean transportation of supplies subject to the requirements of the Cargo Preference Act of 1954 (see 47.502(a)(3)).

(b) When the contractor notifies the contracting officer that a privately owned U.S.-flag commercial vessel is not available, the contracting officer shall seek assistance from the transportation activity.

(c) For purposes of determining the availability of privately owned U.S.-flag commercial vessels at fair and reasonable rates, rates filed and published in accordance with the requirements of the Federal Maritime Commission may be accepted as fair and reasonable. When applicable rates for charter cargoes are not in published tariffs, a determination as to whether the rates are fair and reasonable shall be obtained from the Maritime Administration.

(d) The Maritime Administration has issued regulations (46 CFR 381) that require agencies to submit reports regarding ocean shipments. Contracting officers shall follow agency regulations when preparing, or furnishing information for, these reports.

47.507 Contract clauses.

(a)(1) Insert the clause at 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels, in solicitations and contracts that may involve ocean transportation of supplies subject to the Cargo Preference Act of 1954. (For application of the Cargo Preference Act of 1954, see 47.502(a)(3), 47.503(a), and 47.504.)

(2) If an applicable statute requires, or if it has been determined under agency procedures, that the supplies to be transported exclusively in privately owned U.S.-flag commercial vessels (see 47.502(a)(1) and 47.503(b)), use the clause with its *Alternate I*.

48 CFR Ch. 1 (10-1-05 Edition)

(3) Except for contracts or agreements for ocean transportation services or construction contracts, use the clause with its *Alternate II* if any of the supplies to be transported are commercial items that are shipped in direct support of U.S. military—

(i) Contingency operations;

(ii) Exercises; or

(iii) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

(b) The contracting officer may insert in solicitations and contracts, under agency procedures, additional appropriate clauses concerning the vessels to be used.

[68 FR 13203, Mar. 18, 2003]

PART 48—VALUE ENGINEERING

Sec.

48.000 Scope of part.

48.001 Definitions.

Subpart 48.1—Policies and Procedures

48.101 General.

48.102 Policies.

48.103 Processing value engineering change proposals.

48.104 Sharing arrangements.

48.104-1 Determining sharing period.

48.104-2 Sharing acquisition savings.

48.104-3 Sharing collateral savings.

48.104-4 Sharing alternative—no-cost settlement method.

48.105 Relationship to other incentives.

Subpart 48.2—Contract Clauses

48.201 Clauses for supply or service contracts.

48.202 Clause for construction contracts.

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42443, Sept. 19, 1983, unless otherwise noted.

48.000 Scope of part.

This part prescribes policies and procedures for using and administering value engineering techniques in contracts.

48.001 Definitions.

As used in this subpart—

Acquisition savings means savings resulting from the application of a value engineering change proposal (VECP) to